

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00248 DAE
)	
Plaintiff,)	
)	
vs.)	
)	
SAMUEL KAAUWAI,)	
)	
Defendant.)	
_____)	

ORDER CONTINUING SENTENCING HEARING TO NOVEMBER 27, 2006

On September 25, 2006, United States Magistrate Judge Barry Kurren granted Glen Choy's motion to withdraw as counsel and to substitute Clayton Kimoto as counsel for Defendant Samuel Kaauwai ("Defendant"). On September 28, 2006, new counsel for Defendant filed a motion to continue the October 16, 2006 sentencing date on the basis that he had not yet received the files, and therefore needed more time to familiarize himself with the case.¹ On October 5, 2006, United States Attorney Marshall Silverberg filed an opposition to Defendant's motion.

Based on new counsel's representations that he did not have adequate time to familiarize himself with the case to represent Defendant at sentencing, the

¹Defendant requested a continuance until middle to late January 2007.

Court, on October 6, 2006, continued the sentencing for 21 days until November 6, 2006. On October 23, 2006, Defendant filed a motion to reconsider, seeking to continue the sentencing hearing until middle to late January 2007 on the basis that Defendant wished to withdraw his guilty plea. To this end, Defendant's counsel asserts that he needs time to "investigate the factual allegations including ordering transcripts, interactions with prior attorneys and corroboration of events related to the history of this case."

As noted supra, more than three years has elapsed since Defendant pled guilty. While the Court is certainly aware of new counsel's need to familiarize himself with the facts and background of this case, he also has a responsibility to undertake this task in a timely manner. The record in this case is well-established. Therefore, the Court will not grant Defendant's request for a continuance until January 2007. However, the Court will reschedule the sentencing to November 27, 2006 at 2:15 p.m. By this date, defense counsel will have had more than two months to conduct any inquiries related to Defendant's purported desire to withdraw his plea agreement. If in the interim, Defendant files

a motion to withdraw his guilty plea agreement, the Court will hear the motion on that date.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 25, 2006.





David Alan Ezra
United States District Judge

United States v. Kaauwai, CR No. 03-00248 DAE; ORDER CONTINUING
SENTENCING HEARING TO NOVEMBER 27, 2006